

BEFORE THE DIRECTOR
DEPARTMENT OF CONSUMER AFFAIRS
BUREAU OF AUTOMOTIVE REPAIR
STATE OF CALIFORNIA

Received in BAR EPO
SEP 14 2015

In the Matter of the STAR Certification Invalidation
Against:

O K TIRE STORES INC.
DBA O K TIRE & AUTOMOTIVE,
TIM GOLDTHWAITE, PR
4715 Auburn Blvd.
Sacramento, CA 95841

STAR Certification of Smog Check Test and
Repair Station No. RC 17087

Case Nos. 2014-0011 &
2014-0012

OAH No. 2015030209

Respondent.

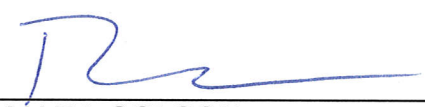
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby accepted and adopted as the Decision of the Director of the Department of Consumer Affairs in the above-entitled matter; except that the following typographical error is corrected as follows:

Page 2, line 5: The expiration date of "April 30, 2015" is
corrected to "April 30, 2016."

This Decision shall become effective October 2, 2015.

DATED: September 9, 2015


TAMARA COLSON
Assistant General Counsel
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JARVIS
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
9 **FOR THE BUREAU OF AUTOMOTIVE REPAIR**
10 **STATE OF CALIFORNIA**

11 In the Matter of the STAR Certification
12 Invalidation Appeal:

13 **O K TIRE STORES INC.**
14 **DBA O K TIRE & AUTOMOTIVE,**
TIM GOLDTHWAITE, PR
15 **4715 Auburn Blvd.**
Sacramento, CA 95841

16 **STAR Certification of Smog Check Test and**
17 **Repair Station No. RC 17087**

18 Respondent.

Case No.s 2014-0011 & 2014-0012

OAH No. 2015030209

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Patrick Dorais ("Complainant") is the Chief of the Bureau of Automotive Repair. He
23 brought this action solely in his official capacity and is represented in this matter by Kamala D.
24 Harris, Attorney General of the State of California, by Kristina T. Jarvis, Deputy Attorney
25 General.

26 2. Respondent O K tire Stores Inc. dba O K Tire & Automotive, Tim Goldthwaite, PR
27 ("Respondent") is representing itself in this proceeding and has chosen not to exercise its right to
28 be represented by counsel.

3. On or about January 1, 1972, the Bureau of Automotive Repair issued Smog Check Test and Repair Station No. RC 17087 to O K tire Stores Inc. dba O K Tire & Automotive, Tim Goldthwaite, PR (Respondent). The Smog Check Test and Repair Station was in full force and effect at all times relevant to the charges brought in STAR Certification Invalidation No. 2014-0011 & 2014-0012 and will expire on April 30, 2015, unless renewed. On or about January 14, 2013, the Smog Check Test and Repair Station License was certified as a STAR station.

JURISDICTION

4. STAR Certification Invalidation No.s 2014-0011 & 2014-0012 was filed before the Director of Consumer Affairs (Director), for the Bureau of Automotive Repair (Bureau), and is currently pending against Respondent. The STAR Certification Invalidation and all other statutorily required documents were properly served on Respondent on July 7, 2014. Respondent timely filed its Notice of Defense contesting the STAR Certification Invalidation.

5. A copy of STAR Certification Invalidation No.s 2014-0011 & 2014-0012 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in STAR Certification Invalidation No.s 2014-0011 & 2014-0012. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the STAR Certification Invalidation; the right to be represented by counsel at its own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in STAR
3 Certification Invalidation No.s 2014-0011 & 2014-0012.

4 10. Respondent agrees that its STAR Certification of Smog Check Test and Repair
5 Station License No. RC 17087 is subject to discipline and agrees to be bound by the Director's
6 probationary terms as set forth in the Disciplinary Order below.

7 **CONTINGENCY**

8 11. This stipulation shall be subject to approval by the Director of Consumer Affairs or
9 the Director's designee. Respondent understands and agrees that counsel for Complainant and the
10 staff of the Bureau of Automotive Repair may communicate directly with the Director and staff of
11 the Department of Consumer Affairs regarding this stipulation and settlement, without notice to
12 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
13 that they may not withdraw its agreement or seek to rescind the stipulation prior to the time the
14 Director considers and acts upon it. If the Director fails to adopt this stipulation as the Decision
15 and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except
16 for this paragraph, it shall be inadmissible in any legal action between the parties, and the
17 Director shall not be disqualified from further action by having considered this matter.

18 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
19 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
20 signatures thereto, shall have the same force and effect as the originals.

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

27 14. In consideration of the foregoing admissions and stipulations, the parties agree that

28 ///

1 the Director may, without further notice or formal proceeding, issue and enter the following
2 Disciplinary Order:

3 **DISCIPLINARY ORDER**

4 IT IS HEREBY ORDERED that STAR Certification of Station License No. RC 17087
5 issued to O K Tire Stores Inc. DBA O K Tire & Automotive, Tim Goldthwaite, President
6 ("Respondent") is invalidated under the following terms and conditions:

7 1. **Invalidation.** Respondent's STAR Certification shall be temporarily invalidated for
8 a period of 30 consecutive days beginning on the effective date of this Decision and Order.
9 During the period of invalidation, Respondent shall cease advertising as a STAR station and shall
10 cover or remove all STAR signage. During the period of invalidation, Respondent shall not
11 perform any repairs under the Consumer Assistance Program.


12 2. **Automatic Reinstatement.** Upon successful completion of the 30 day invalidation,
13 Respondent's STAR Certification shall be fully restored without reapplication for STAR
14 Certification.

15 3. **Violation of Decision and Order.** If Respondent violates any term and condition of
16 this Decision and Order, then the violation shall constitute a cause to discipline Respondent's
17 Smog Check Station License, Automotive Repair Dealer Registration, and any other Bureau
18 issued licenses or registrations.

19 **ACCEPTANCE**

20 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
21 stipulation and the effect it will have on the STAR Certification of my Smog Check Test and
22 Repair Station. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
23 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Director of
24 Consumer Affairs.

25
26 DATED: April 12, 2015


O K TIRE STORES INC. DBA O K TIRE &
AUTOMOTIVE, TIM GOLDTHWAITE, PR
Respondent

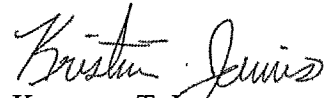
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Director of Consumer Affairs.

Dated: April 20, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


KRISTINA T. JARVIS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

STAR Certification Invalidation No.s 2014-0011 & 2014-0012



DEPARTMENT OF CONSUMER AFFAIRS BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

LICENSING UNIT

10949 North Mather Boulevard, Rancho Cordova, CA 95670
P (855) 735.0462 F (888) 421-7798 | www.bar.ca.gov



June 13, 2014

Invalidation #2014-0011

Tim Goldthwaite
O K Tire & Automotive
4715 Auburn Blvd
Sacramento, CA 95841

ARD/RC 17087

RE: Notice of STAR Certification Invalidation—Station Citation(s)

Tim Goldthwaite:

The Bureau of Automotive Repair (Bureau) is hereby notifying you that on June 27, 2014, the Bureau will invalidate your STAR certification, pursuant to the California Code of Regulations (CCR) Section 3392.5.1 for the following finding(s):

- Your station, O K Tire & Automotive was issued citation number C2014-496 on January 29, 2014.
- The citation was not appealed and became effective April 12, 2014.
- The California Code of Regulations (CCR) Section 3392.5.1 (a) states, "It shall be cause for the bureau to invalidate the certification of a STAR station if any of the following occur:"
 - CCR Section 3392.5.1. (a) (1) states, "The STAR station, manager, or any licensed technician employed by the station receives an order of suspension, a probationary order, or a citation that is final and non-appealable..."

Based on the information above, the Bureau is invalidating your STAR certification, effective June 27, 2014. After invalidation of STAR certification, your station may continue to perform smog check tests or repair services, pursuant to the type of license held by your station (Test-Only or Test and Repair).

If you choose to appeal this action, fill-out the enclosed Request to Appeal STAR Invalidation form. This form must be received by the Bureau Headquarters no later than June 27, 2014. Send your appeal to:

Bureau of Automotive Repair Licensing Unit
STAR Appeals
10949 North Mather Boulevard
Rancho Cordova, CA 95670



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

ENFORCEMENT PLANNING AND OVERSIGHT BRANCH
10949 North Mather Boulevard, Rancho Cordova, CA 95670
P (916) 403-8060 F (916) 464-3406 | www.bar.ca.gov



June 13, 2014

Tim Goldthwaite
O K Tire & Automotive
4715 Auburn Blvd
Sacramento, CA 95841

ARD/RC 17087

Re: Separate STAR Certification Invalidation Cause to Proceed

Tim Goldthwaite:

This letter is to advise you that the Bureau of Automotive Repair is aware of your first Notice of STAR Certification Invalidation letter sent by the Bureau on June 13, 2014 for Citation #C2014-496, Invalidation #2014-0011. This previous Notice of STAR Certification Invalidation is unrelated to the current cause for invalidation and will proceed regardless of the outcome of the current invalidation proceedings.

The current cause for your station's STAR Invalidation is detailed in the enclosed Notification of the STAR Certification Invalidation letter dated June 13, 2014, Invalidation #2014-0012. This matter will proceed as a new, separate cause for invalidation, and must be acted upon independently from the previous cause for invalidation.

Please note, the current STAR Invalidation (detailed in the attached letter dated, June 13, 2014) is a separate matter and must be responded to pursuant to section 3392.6.1 of Title 16 of the California Code of Regulations (CCR). Failure to respond to the current cause for invalidation June result in the invalidation of your STAR certification without further notice.

Respectfully,

William Thomas
Program Manager I
Enforcement Planning and Oversight
Bureau of Automotive Repair

Attachment: Letter of STAR Invalidation

Page 2 of 2

Should you choose not to appeal to this notification, for any reason, your STAR Certification will be invalidated without further notice. Your STAR Appeal Form must be received no later than June 27, 2014 to be evaluated.

Respectfully,



Bill Thomas
Program Manager I
Enforcement Planning and Oversight
Bureau of Automotive Repair

cc: Licensing Unit

Attachment: STAR Appeal Form



DEPARTMENT OF CONSUMER AFFAIRS BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GOVERNOR EDMUND G. BROWN JR.

LICENSING UNIT

10949 North Mather Boulevard, Rancho Cordova, CA 95670
P (855) 735.0462 F (888) 421-7798 | www.bar.ca.gov



June 13, 2014

Invalidation #2014-0012

Tim Goldthwaite
O K Tire & Automotive
4715 Auburn Blvd
Sacramento, CA 95841

ARD/RC 17087

RE: Notice of STAR Certification Invalidation—Technician Citation(s)

Tim Goldthwaite:

The Bureau of Automotive Repair (Bureau) is hereby notifying you that June 27, 2014, the Bureau will invalidate your STAR certification, pursuant to the California Code of Regulations (CCR) Section 3392.5.1 for the following finding(s):

- A technician in your employ, Larry Sandoval #635490, was issued citation number M2014-497 on January 29, 2014.
- The citation was appealed not appealed and became effective April 12, 2014.
- The California Code of Regulations (CCR) Section 3392.5.1 (a) states, "It shall be cause for the bureau to invalidate the certification of a STAR station if any of the following occur:"
 - CCR Section 3392.5.1. (a) (1) states, "The STAR station, manager, or any licensed technician employed by the station receives an order of invalidation, a probationary order, or a citation that is final and non-appealable..."

Based on the information above, the Bureau is invalidating your STAR certification, effective June 27, 2014. After invalidation of STAR certification, your station June continue to perform smog check tests or repair services, pursuant to the type of license held by your station (Test-Only or Test and Repair).

If you choose to appeal this action, fill-out the enclosed Request to Appeal STAR Invalidation form. This form must be received by the Bureau Headquarters no later than June 27, 2014. Send your appeal to:

**Bureau of Automotive Repair Licensing Unit
STAR Appeals
10949 North Mather Boulevard
Rancho Cordova, CA 95670**

Page 2 of 2

Should you choose not to appeal to this notification, for any reason, your STAR Certification will be invalidated without further notice. Your STAR Appeal Form must be received no later than June 27, 2014 to be evaluated.

Respectfully,



Bill Thomas, Program Manager I
Enforcement Planning and Oversight
Bureau of Automotive Repair

cc: Licensing Unit

Attachment: STAR Appeal Form